

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA
HARRISBURG DIVISION**

JUDICIAL WATCH, INC.,

Plaintiff,

v.

**COMMONWEALTH OF
PENNSYLVANIA, *et al.*,**

Defendants.

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No. 1:20-CV-0708

(JUDGE CONNER)

**LUZERNE COUNTY DEFENDENTS' ANSWER AND AFFIRMATIVE
DEFENSES TO PLAINTIFF'S FIRST AMENDED COMPLAINT**

Defendants, Luzerne County Council, Tim McGinley, and Shelby Watchilla (“Luzerne County Defendants”), by and through their undersigned counsel, file the following Answer and Affirmative Defenses to Plaintiff’s First Amended Complaint as follows:

1. Admitted in part; denied in part. Admitted that Plaintiff seeks declaratory and injunctive relief, but denied that Defendants refuse to comply and/or are not in compliance with the National Voter Registration Act of 1993 (“NVRA”), 52 U.S.C. §20507.

2. Admitted in part; denied in part. It is admitted that the Plaintiff invokes the jurisdiction of this court. It is specifically denied that the Plaintiff has claims sufficient to warrant federal jurisdiction. The remaining allegations are denied.

3. Admitted.

4. Admitted in part; denied in part. It is admitted only that Plaintiff is Judicial Watch, Inc. Luzerne County Defendants are without knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations.

5. Denied as a conclusion of law to which no responsive pleading is required. To the extent such a response is required and by way of further response, same is specifically denied.

6. Denied as a conclusion of law to which no responsive pleading is required. To the extent such a response is required and by way of further response same is specifically denied.

7. Denied. It is specifically denied that the Defendant Luzerne County Council is an agency established under state law with jurisdiction over the conduct of elections within the county. On the contrary, the Luzerne County Board of Voter Registration and Elections is the agency established under the Luzerne County Home Rule Charter and state law with jurisdiction over the conduct of elections within the county.

8. Admitted in part; denied in part. It is admitted that at the filing of the instant lawsuit, Tim McGinley was the Chair of the Luzerne County Council. It is

specifically denied that Tim McGinley is currently the Chair of County Council. On the contrary, the Chair of Luzerne County Council is Kendra Radle.

9. Admitted in part; denied in part. It is admitted that at the filing of the instant lawsuit, Shelby Watchilla was the Director of Elections for Luzerne County. It is specifically denied that she is currently the Director of Luzerne County Elections. By way of further answer, the current Director of Luzerne County Elections is Michael Susek.

10. Denied. After reasonable investigation, Luzerne County Defendants lack sufficient knowledge or information to form a belief as to the truth or falsity of this allegation.

11. Denied. After reasonable investigation, Luzerne County Defendants lack sufficient knowledge or information to form a belief as to the truth or falsity of this allegation.

12. Denied. After reasonable investigation, Luzerne County Defendants lack sufficient knowledge or information to form a belief as to the truth or falsity of this allegation.

13. Denied. After reasonable investigation, Luzerne County Defendants lack sufficient knowledge or information to form a belief as to the truth or falsity of this allegation.

14. Denied. After reasonable investigation, Luzerne County Defendants lack sufficient knowledge or information to form a belief as to the truth or falsity of this allegation.

15. Denied. After reasonable investigation, Luzerne County Defendants lack sufficient knowledge or information to form a belief as to the truth or falsity of this allegation.

16. Denied. After reasonable investigation, Luzerne County Defendants lack sufficient knowledge or information to form a belief as to the truth or falsity of this allegation.

17. Denied. After reasonable investigation, Luzerne County Defendants lack sufficient knowledge or information to form a belief as to the truth or falsity of this allegation.

18. Denied. After reasonable investigation, Luzerne County Defendants lack sufficient knowledge or information to form a belief as to the truth or falsity of this allegation.

19. Denied. After reasonable investigation, Luzerne County Defendants lack sufficient knowledge or information to form a belief as to the truth or falsity of this allegation.

20. Denied. After reasonable investigation, Luzerne County Defendants lack sufficient knowledge or information to form a belief as to the truth or falsity of this allegation.

21. Denied. After reasonable investigation, Luzerne County Defendants lack sufficient knowledge or information to form a belief as to the truth or falsity of this allegation.

22. Denied as a conclusion of law to which no responsive pleading is required. To the extent such a response is required and by way of further response, same is specifically denied.

23. Denied as a conclusion of law to which no responsive pleading is required. To the extent such a response is required and by way of further response, same is specifically denied.

24. Denied as a conclusion of law to which no responsive pleading is required. To the extent such a response is required and by way of further response, same is specifically denied.

25. Denied as a conclusion of law to which no responsive pleading is required. To the extent such a response is required and by way of further response, same is specifically denied.

26. Denied as a conclusion of law to which no responsive pleading is required. To the extent such a response is required and by way of further response, same is specifically denied.

27. Denied as a conclusion of law to which no responsive pleading is required. To the extent such a response is required and by way of further response, same is specifically denied.

28. Denied as a conclusion of law to which no responsive pleading is required. To the extent such a response is required and by way of further response, same is specifically denied.

29. Denied as a conclusion of law to which no responsive pleading is required. To the extent such a response is required and by way of further response, same is specifically denied.

30. Denied as a conclusion of law to which no responsive pleading is required. To the extent such a response is required and by way of further response, same is specifically denied.

31. Denied. After reasonable investigation, the Luzerne County Defendants lack sufficient knowledge or information to form an opinion as to the truth or falsity of the allegations in Paragraph 31. To the extent a response is deemed necessary and by way of further response, the allegations are denied. Furthermore, the Luzerne County Defendants deny that Judicial Watch has standing to pursue

these claims. Judicial Watch has not identified any Luzerne County electors who have a cognizable injury and legal interest in the claims raised by the Complaint.

32. Denied. After reasonable investigation, Luzerne County Defendants lack sufficient knowledge or information to form a belief as to the truth or falsity of this allegation. To the extent a response is deemed necessary, the allegations are denied. Furthermore, the Luzerne County Defendants deny that Judicial Watch has standing to pursue these claims. Judicial Watch has not identified any Luzerne County electors who have a cognizable injury and legal interest in the claims raised by the Complaint.

33. Denied. After reasonable investigation, the Luzerne County Defendants lack sufficient knowledge or information to form an opinion as to the truth or falsity of the allegations in Paragraph 33. To the extent that Plaintiff asserts that these averments confer standing in this litigation, it is specifically denied that Judicial Watch has standing to pursue these claims.

34. Denied. After reasonable investigation, the Luzerne County Defendants lack sufficient knowledge or information to form an opinion as to the truth or falsity of the allegations in Paragraph 34. To the extent that Plaintiff asserts that these averments confer standing in this litigation, it is specifically denied that Judicial Watch has standing to pursue these claims.

35. Denied. After reasonable investigation, the Luzerne County Defendants lack sufficient knowledge or information to form an opinion as to the truth or falsity of the allegations in Paragraph 35. To the extent that Plaintiff asserts that these averments confer standing in this litigation, it is specifically denied that Judicial Watch has standing to pursue these claims.

36. Denied. After reasonable investigation, Luzerne County Defendants lack sufficient knowledge or information to form a belief as to the truth or falsity of this allegation.

37. Denied. After reasonable investigation, Luzerne County Defendants lack sufficient knowledge or information to form a belief as to the truth or falsity of this allegation.

38. Denied. After reasonable investigation, Luzerne County Defendants lack sufficient knowledge or information to form a belief as to the truth or falsity of this allegation.

39. Denied. After reasonable investigation, Luzerne County Defendants lack sufficient knowledge or information to form a belief as to the truth or falsity of this allegation.

40. Denied. After reasonable investigation, Luzerne County Defendants lack sufficient knowledge or information to form a belief as to the truth or falsity of

this allegation. To the extent a response is deemed necessary, the allegations are denied. To the extent a response is deemed necessary, the allegations are denied.

41. Denied. After reasonable investigation, Luzerne County Defendants lack sufficient knowledge or information to form a belief as to the truth or falsity of this allegation. To the extent a response is deemed necessary, the allegations are denied.

42. Denied. After reasonable investigation, Luzerne County Defendants lack sufficient knowledge or information to form a belief as to the truth or falsity of this allegation. To the extent a response is deemed necessary, the allegations are denied and to the extent the averments of this paragraph call for a legal conclusion no response is required.

43. Denied as a conclusion of law to which no responsive pleading is required. To the extent such a response is required and by way of further response, same is specifically denied.

44. Denied. The EAVS data speaks for itself, and any characterization of the data is specifically denied.

45. Denied. After reasonable investigation, Luzerne County Defendants lack sufficient knowledge or information to form a belief as to the truth or falsity of this allegation.

46. Denied. After reasonable investigation, Luzerne County Defendants lack sufficient knowledge or information to form a belief as to the truth or falsity of this allegation.

47. Denied. After reasonable investigation, Luzerne County Defendants lack sufficient knowledge or information to form a belief as to the truth or falsity of this allegation.

48. Denied. After reasonable investigation, Luzerne County Defendants lack sufficient knowledge or information to form a belief as to the truth or falsity of this allegation.

49. Denied. After reasonable investigation, Luzerne County Defendants lack sufficient knowledge or information to form a belief as to the truth or falsity of this allegation. To the extent such a response is required and by way of further response same is specifically denied.

50. Denied. After reasonable investigation, Luzerne County Defendants lack sufficient knowledge or information to form a belief as to the truth or falsity of this allegation. To the extent such a response is required and by way of further response, same is specifically denied. Furthermore, to the extent these allegations call for a legal conclusion no response is required.

51. Denied. After reasonable investigation, Luzerne County Defendants lack sufficient knowledge or information to form a belief as to the truth or falsity of

this allegation. To the extent such a response is required and by way of further response, same is specifically denied. Furthermore, to the extent these allegations call for a legal conclusion no response is required.

52. Denied. After reasonable investigation, Luzerne County Defendants lack sufficient knowledge or information to form a belief as to the truth or falsity of this allegation. To the extent such a response is required and by way of further response same is specifically denied.

53. Denied. After reasonable investigation, Luzerne County Defendants lack sufficient knowledge or information to form a belief as to the truth or falsity of this allegation. To the extent such a response is required and by way of further response same is specifically denied.

54. Denied. After reasonable investigation, Luzerne County Defendants lack sufficient knowledge or information to form a belief as to the truth or falsity of this allegation. To the extent such a response is required and by way of further response, same is specifically denied. Furthermore, to the extent these allegations call for a legal conclusion no response is required.

55. Denied. After reasonable investigation, Luzerne County Defendants lack sufficient knowledge or information to form a belief as to the truth or falsity of this allegation. To the extent such a response is required and by way of further response same is specifically denied.

56. Denied. After reasonable investigation, Luzerne County Defendants lack sufficient knowledge or information to form a belief as to the truth or falsity of this allegation. To the extent such a response is required and by way of further response same is specifically denied.

57. Denied as a conclusion of law to which no responsive pleading is required. To the extent such a response is required and by way of further response, same is specifically denied.

58. Denied as a conclusion of law to which no responsive pleading is required. To the extent such a response is required and by way of further response, same is specifically denied.

59. Denied as a conclusion of law to which no responsive pleading is required. Likewise, EAVS data speaks for itself and any characterization of it is denied. To the extent such a response is required and by way of further response, same is specifically denied. Furthermore, after reasonable investigation, Luzerne County Defendants lack sufficient knowledge or information to form a belief as to the truth or falsity of this allegation.

60. Denied as a conclusion of law to which no responsive pleading is required. Likewise, EAVS data speaks for itself and any characterization of it is denied. To the extent such a response is required and by way of further response, same is specifically denied. Furthermore, after reasonable investigation, Luzerne

County Defendants lack sufficient knowledge or information to form a belief as to the truth or falsity of this allegation.

61. Denied as a conclusion of law to which no responsive pleading is required. Likewise, EAVS data speaks for itself and any characterization of it is denied. To the extent such a response is required and by way of further response, same is specifically denied. Furthermore, after reasonable investigation, Luzerne County Defendants lack sufficient knowledge or information to form a belief as to the truth or falsity of this allegation.

62. Denied. After reasonable investigation, Luzerne County Defendants lack sufficient knowledge or information to form a belief as to the truth or falsity of this allegation. To the extent such a response is required and by way of further response same is specifically denied.

63. Denied. After reasonable investigation, Luzerne County Defendants lack sufficient knowledge or information to form a belief as to the truth or falsity of this allegation. To the extent such a response is required and by way of further response same is specifically denied.

64. Denied. After reasonable investigation, Luzerne County Defendants lack sufficient knowledge or information to form a belief as to the truth or falsity of this allegation. To the extent such a response is required and by way of further response same is specifically denied.

65. Denied. After reasonable investigation, Luzerne County Defendants lack sufficient knowledge or information to form a belief as to the truth or falsity of this allegation. To the extent such a response is required and by way of further response same is specifically denied.

66. Denied. After reasonable investigation, Luzerne County Defendants lack sufficient knowledge or information to form a belief as to the truth or falsity of this allegation. To the extent such a response is required and by way of further response same is specifically denied.

67. Denied. After reasonable investigation, Luzerne County Defendants lack sufficient knowledge or information to form a belief as to the truth or falsity of this allegation. To the extent such a response is required and by way of further response same is specifically denied.

68. Denied. After reasonable investigation, Luzerne County Defendants lack sufficient knowledge or information to form a belief as to the truth or falsity of this allegation. To the extent such a response is required and by way of further response, same is specifically denied. Furthermore, to the extent these allegations call for a legal conclusion no response is required.

69. Denied as a conclusion of law to which no responsive pleading is required. To the extent such a response is required and by way of further response, same is specifically denied.

70. Denied. After reasonable investigation, Luzerne County Defendants lack sufficient knowledge or information to form a belief as to the truth or falsity of this allegation. To the extent such a response is required and by way of further response same is specifically denied.

71. Denied. After reasonable investigation, Luzerne County Defendants lack sufficient knowledge or information to form a belief as to the truth or falsity of this allegation. The letter speaks for itself and any characterization of it is denied. To the extent such a response is required and by way of further response same is specifically denied.

72. Denied as a conclusion of law to which no responsive pleading is required. To the extent such a response is required and by way of further response, same is specifically denied.

73. Denied. The letter speaks for itself and any characterization of it is denied. To the extent such a response is required and by way of further response same is specifically denied.

74. Denied. After reasonable investigation, Luzerne County Defendants lack sufficient knowledge or information to form a belief as to the truth or falsity of this allegation. The letter speaks for itself and any characterization of it is denied. To the extent such a response is required and by way of further response same is specifically denied.

75. Denied. After reasonable investigation, Luzerne County Defendants lack sufficient knowledge or information to form a belief as to the truth or falsity of this allegation. The letter speaks for itself and any characterization of it is denied. To the extent such a response is required and by way of further response same is specifically denied. Furthermore, the documents and data speak for themselves, and any characterization is specifically denied.

76. Denied. After reasonable investigation, Luzerne County Defendants lack sufficient knowledge or information to form a belief as to the truth or falsity of this allegation. The letter speaks for itself and any characterization of it is denied. To the extent such a response is required and by way of further response same is specifically denied. Furthermore, the documents and data speak for themselves, and any characterization is specifically denied.

77. Denied. After reasonable investigation, Luzerne County Defendants lack sufficient knowledge or information to form a belief as to the truth or falsity of this allegation. The letter speaks for itself and any characterization of it is denied. To the extent such a response is required and by way of further response same is specifically denied.

78. Admitted in part; denied in part. Luzerne County admits that it never responded to Plaintiff but denied that it failed to take action or was legally obligated to respond to Plaintiff.

79. Admitted.

80. Denied as a conclusion of law to which no responsive pleading is required. To the extent such a response is required and by way of further response, same is specifically denied.

81. Denied. After reasonable investigation, Luzerne County Defendants lack sufficient knowledge or information to form a belief as to the truth or falsity of this allegation. To the extent such a response is required and by way of further response same is specifically denied.

82. Denied. After reasonable investigation, Luzerne County Defendants lack sufficient knowledge or information to form a belief as to the truth or falsity of this allegation. To the extent such a response is required and by way of further response same is specifically denied.

83. Denied. After reasonable investigation, Luzerne County Defendants lack sufficient knowledge or information to form a belief as to the truth or falsity of this allegation. To the extent such a response is required and by way of further response same is specifically denied.

84. Denied. After reasonable investigation, Luzerne County Defendants lack sufficient knowledge or information to form a belief as to the truth or falsity of this allegation. To the extent such a response is required and by way of further response same is specifically denied.

85. Denied. After reasonable investigation, Luzerne County Defendants lack sufficient knowledge or information to form a belief as to the truth or falsity of this allegation. To the extent such a response is required and by way of further response same is specifically denied. Furthermore, to the extent these allegations are conclusions of law, no response is required.

86. Denied as a conclusion of law to which no responsive pleading is required. To the extent such a response is required and by way of further response, same is specifically denied.

87. Denied. The allegations of this paragraph are a conclusion of law to which no responsive pleading is required. To the extent such a response is required and by way of further response, same is specifically denied.

88. Denied as a conclusion of law to which no responsive pleading is required. To the extent such a response is required and by way of further response, same is specifically denied.

89. Denied. After reasonable investigation, Luzerne County Defendants lack sufficient knowledge or information to form a belief as to the truth or falsity of this allegation. To the extent such a response is required and by way of further response same is specifically denied.

90. Denied. The allegations of this paragraph are conclusion of law to which no responsive pleading is required. To the extent such a response is required and by way of further response, same is specifically denied.

91. Denied. After reasonable investigation, Luzerne County Defendants lack sufficient knowledge or information to form a belief as to the truth or falsity of this allegation. To the extent such a response is required and by way of further response same is specifically denied.

92. Luzerne County Defendants incorporate by reference their responses to all preceding paragraphs as if fully set forth herein.

93. Denied. The allegations of this paragraph are conclusion of law to which no responsive pleading is required. To the extent such a response is required and by way of further response, same is specifically denied.

94. Denied. The allegations of this paragraph are conclusion of law to which no responsive pleading is required. To the extent such a response is required and by way of further response, same is specifically denied.

95. Denied. The allegations of this paragraph are conclusion of law to which no responsive pleading is required. To the extent such a response is required and by way of further response, same is specifically denied.

96. Denied. The allegations of this paragraph are conclusion of law to which no responsive pleading is required. To the extent such a response is required and by way of further response, same is specifically denied.

97. Denied. The allegations of this paragraph are conclusion of law to which no responsive pleading is required. To the extent such a response is required and by way of further response, same is specifically denied.

WHEREFORE, the Luzerne County Defendants pray this Honorable Court grant judgment in their favor, dismiss the complaint in its entirety, and award all other relief that it deems just and proper including, but not limited to, award reasonable costs and expenses including attorney's fees.

AFFIRMATIVE DEFENSES

98. Plaintiff has not stated a claim upon which relief can be granted.

99. Plaintiff has failed to include a necessary and proper party.

100. Plaintiff does not have standing.

101. Plaintiff has no damages.

102. Plaintiff's claim is barred by the statute of limitations.

103. Plaintiff's claim is barred by the doctrine of laches

104. Plaintiff's claims are barred, in whole or in part, Eleventh Amendment immunity, sovereign immunity, qualified immunity, governmental immunity, and absolute immunity.

105. At all times material and relevant hereto, Luzerne County Defendants acted reasonably and in good faith.

106. There is no case or actual controversy.

107. Plaintiff's claims are barred because they are moot. Plaintiff's complaint should be dismissed with prejudice and that judgment be entered in the Luzerne County Defendants' favor, together with costs and such other and further relief as this Court deems just and proper.

Respectfully submitted,

s/Drew P. McLaughlin

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*Attorney for Defendants
Luzerne County Council,
Tim McGinley, and
Shelby Watchilla*

DATED: July 13, 2022

CERTIFICATE OF SERVICE

I, Drew P. McLaughlin, hereby certify that I have served a true and correct copy of the foregoing entry of appearance via ECF on all counsel of record and to the following presently unrepresented parties via first class mail:

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DATED: July 13, 2022

s/Drew P. McLaughlin
Drew P. McLaughlin